

9098/PMK
CICHANOWICZ, CALLAN, KEANE,
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Attorneys for Defendant
EVERGREEN MARINE CORP. (TAIWAN) LTD.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

HARLEM FURNITURE,

Plaintiff,

- against -

M/V "EVER UNIFIC", her tackles, boilers,
engines, etc.; EVERGREEN MARINE
CORPORATION

Defendants.

08 CV 0589 (Judge Lynch)

ECF CASE

ANSWER

Defendant EVERGREEN MARINE CORP. (TAIWAN) LTD. (hereinafter "EMC"), incorrectly sued herein as EVERGREEN MARINE CORP., by its attorneys Cichanowicz, Callan, Keane, Vengrow & Textor, as and for its answer to the complaint, alleges upon information and belief as follows:

1. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 1.
2. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 2.
3. Admits the allegations of paragraph 3.
4. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 4.

5. Denies the allegations contained in paragraph 5.

6. Admits that container TGHU774256/5 was carried pursuant to the listed bill of lading and washed overboard during heavy weather, but except as specifically admitted, denies knowledge or information sufficient to form a belief.

7. Denies the allegations contained in paragraph 7.

8. Denies the allegations contained in paragraph 8.

9. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 9.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

10. The shipments in question was carried from a foreign port to a United States port pursuant to a bill of lading contract and were, therefore, subject to the United States Carriage of Goods by Sea Act (46 App. §1300 et. seq.).

11. EMC claims the benefit of all exceptions, exemptions and limitations contained in the bill of lading contract and the aforesaid statute to the full extent they may be applicable to it.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

12. EMC's liability, if any, is limited to \$500.00 per package.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

13. EMC claims the benefit of all exceptions, exemptions and limitations contained in the U.S. Harter Act (46 App. §190 et. seq.) and the general maritime law of the United States to the full extent they may be applicable to it.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

14. Defendant EMC is not liable since the loss alleged in the complaint occurred as a result of: (a) an act, neglect or default of the Master, mariner, pilot or the servants of the carrier and the navigation or in the management of the ship; (b) perils, dangers, and accidents of the sea or other navigable waters; (c) an Act of God.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE

15. If the loss alleged in the complaint occurred, it occurred as the result of a cause arising with the actual fault or privity of the carrier or without the fault or neglect of the agents or servants of the carrier.

AS AND FOR A SIXTH AFFIRMATIVE DEFENSE

16. This Court is an inconvenient forum for this action.

WHEREFORE, Defendant EMC prays that the complaint be dismissed together with costs and disbursements incurred in the defense of this action.

Dated: New York, New York
April 10, 2008

CICHANOWICZ, CALLAN, KEANE,
VENGROW & TEXTOR, LLP
61 Broadway, Suite 3000
New York, New York 10006

Attorneys for Defendant
EVERGREEN MARINE CORP.
(TAIWAN) LTD.

By: s/ Paul M. Keane
Paul M. Keane (PMK-5934)

To: David Mazaroli
11 Park Place, Suite 1214
New York, New York 10007

CERTIFICATE OF SERVICE BY REGULAR U.S. MAIL AND BY ECF

The undersigned declares under penalty of perjury that the following is true and correct:

1. I am over the age of eighteen years and I am not a party to this action.
2. On April 10, 2008, I served a complete copy of EVERGREEN MARINE CORP. (TAIWAN) LTD.'s Answer to plaintiff's complaint, by regular U.S. mail and by ECF, to the following attorneys at their ECF registered address and at the following address:

To: David Mazaroli
11 Park Place, Suite 1214
New York, New York 10007


Amanda Magri

DATED: April 10, 2008
New York, New York